App F IX-4

Previous References
M.10-50-14 15

1954-55
(C M)

File No 15-57-
S r al Nos 11, 12

Later References
'54 13 C 7<57

MYSORE GOVERNMENT SECRETARIAT

Serial Nos Two

Part B for September 1954

SUBJECT

Controlling the Pasting of advertisement Posters – Mysore city Municipality.

WD 06701—GPB—2,000—11 8 54

The Municipal Commissioner
Mysore city Municipality

Controller, S A D
L 6715/dated 9 9 54

States that the suggested amendment be defered.

Jn Rameshwara
27/12/54

864/dD 2219 lords ①

Controlling the pasting of advertisements posters, etc, on Mysore city

From
The Municipal Council Mysore city
No C3 P 92/48-49 dated 7/24-6-50

Forwards for sanction draft bye-laws in respect of the above

Municipal Collection 58 & 49 (Sch 18 2) prescribing the levy of tax on the pasting of advertisements on Mysore city is put up

Has U

2) Bye laws are therefore now framed by the Municipal Council and after the observance of the required formalities, they are submitted to Govt for sanction as per resolution dated 29.5.50 of the Municipal Council

3) Law Branch, may perhaps be consulted about the constitutionality of the draft bye-laws

Law 6/7/50

4) The Law dept may be consulted about the legality & enforceability of the proposed bye laws

L. L. Dept 7/7/50

Law Secretary may kindly see remarks 5) 7/7/50

8/7/50

SECRET 3915 7/7 LW DEPT 33 WD 8 JUL 1950 RECEIVED

TV Has 10750

107

Bye-laws for the Regulation of advertisements in the Mysore City Municipality

b) The draft Bye-laws have been framed by the Municipal Council of Mysore City Municipality for the levy of tax on advertisements under Section 64(1)(XIX) of the Mysore City Municipalities Act 1933 There is no specific mention of this kind of tax in the said Section 64(1)(XIV) which is in the nature of a general provision permitting the levy of "any other tax" by a municipal Council with the previous approval of the Govt. Legal opinion has been furnished in the Collection put up that the levy of a tax on advertisements

appears to come within the purview of section 64(b)(xiv)

7) But the question seems to require re examination now in the light of the relevant provisions of the Constitution of India. Taxes on advertisements other than advertisements published in the newspapers fall under entry 55 of List II - State List, in the Seventh Schedule to the Constitution. The State Legislature has, therefore, exclusive power to legislate in respect of this matter.

8) It is, however, conceivable that the State Legislature might exercise this power

by itself or delegate it to any local authority, for instance, a Municipal Council In the latter case, taxes on advertisements levied by the municipal Council so authorised, have the same legal effect as the taxes levied by the state legislature.

9) Such authority is in the nature of a delegated trust and must be conferred by express words (as has been provided in the City of Bangalore Municipal Corporations Act, 1949,)

or by necessary or unmistakable implications

10) Since there is no express provision in the City Municipal Act for the levy of any tax on advertisements, the question arises whether the power to levy this tax can be deem to have been conferred by necessary implications under section 64 b (xw) of the Act If the words "any other tax" used in this section are so construed as to cover this tax, then its levy will legally be unobjectionable. If, on the other hand, any restricted meaning is attached to these words either by the application

Draft Bye-Laws for the levy of tax on advertisements by the Mysore City, Municipality

of ejusdem generis doctrine or on other grounds, the exclusion has perhaps to be contrary.

11) If approved, the administrative section will be requested to clarify the legal position in the light of the existing constitutional set up

2N 14 7 80

12) The Law Branch may be consulted again in the matter in the light of the above remarks In this connection reference is also invited to Article 265 of the Constitution which lays down that no tax should be levied or collected except by authority of law What 'law' signifies in this Article requires examination Moreover, it seems necessary to examine whether there are any limitations to the power exercisable under section 64(b)(xiv) of the Mysore City Municipalities Act, 1933, and if so, what they are

A

Even

1782 Levy of advertisement tax by the Mysore City Municipality.

864/49

13) Even if the said provision is valid, perhaps it cannot be invoked to levy any kind of tax included in the State List, e.g. tax on consumption or sale of electricity, or tax on the sale or purchase of goods, or Capitation tax

14) The question seems to require examination from the financial Mas 14751 sides also, since with the allocation of as number of sources of revenue to the Union, it may not be possible for the States to allocate this source to a local body. The State may itself consider the possibility of exploiting this source for its own purposes

Law Secy 15) 17/7 Law Br to Examine A

1889 2/8 3/8

16) ...ra reference is invited to views expressed at paras/17 in the file placed below. It was stated then (in July, 1950) that though sec 64(b) XIV of the City Municipalities Act does not expressly mention 'tax on advertisements', such a tax could be imposed with the prior sanction of Government (vide sec 64(b) XIV) of the City Municipalities Act). The position has changed since the Constitution of India came into force from 26th January 1950. It is seen that taxes on advertisements (excepting advertisements in newspapers) is a State subject for purposes of legislation (vide item 55, List II, State List, 7th Schedule.

CM 58-49(1-2)

(8) 1782/Cau 2219

Constitution of India) The State Legislature has exclusive power to make laws with respect to any of the matters enumerated in List II, 7th Schedule (vide Article 246(3), Constitution of India) Article 265, however, lays down that no tax should be levied or collected except by authority of law

17) Sec 64(t) of the City Municipalities Act does not specifically provide for imposition of such a tax, nor does it require approval by Government after the Constitution of India came into force came to be sufficient for purposes of delegation of such powers It is not a question of delegation of the legislative power of the State to the local body by a mere executive order It has to be, if at all, by a special enactment establishing the local bodies to impose such a tax It is also doubtful how far the powers of the Corporation under the Corporation Act (vide Sec 105) could be exercised in the matter of tax on advertisements, a tax which could be imposed by the State and which is fully belongs to the State In the circumstances, it cannot be possible for the City Municipality of Mysore to levy such a tax no

Law Secy) 18/8

BSV 21/9/ 19/8

19) The Law opinion furnished in Paras 16 & 17 is subject for Perusal & orders

Mysore 6/9 6/7/1 1/2 1956

L S G Secy) for 6/7/15

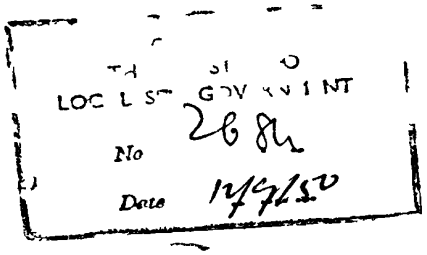
L 5/9/15

20) The Commissioner may the

2219

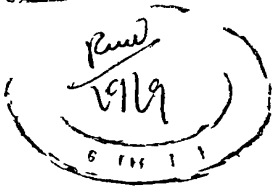
Controlling of posting of Probationary Officers
appraised of the legal position and action
taken accordingly

L S G Whereas) Dy 5/
from 11/9/50



21) 12
18/9/50

22) Dft letter
for 15/9/50



23) Dft Letter to the Municipal Commrs
Mysore etc & put up for approval
Chas 20/9/50 Dy 20/9 24) Issue attd
for 23/9/50

The Municipal Commr
Mysore city
(thro' the President)
L 6556/926 9 50
Directs that the question
may be seen for the
~~President~~ previous

25) Whether this may be deputed is for
orders
Subd
M
4-10-50 Dy 4/10 26) Mr Shamiah Deputation
has also suggested the levy of
advertisement tax
required vide that file
Mrs file vide the
connection of putting
from Mysore

27) Extract of letter
submitted under
the file relating
to the taxation proposals
of the Corporation &
other Bodies

(10) 6888/ms

Concerning the posting of advertisement in Mysore city

From

The Municipal Commr, Mysore city

No. C2 P 92/45 dtd 6/1/51

Requests the undertaking of necessary legislation to enable the levy of tax on the posting of advertisements

of the Mysore city municipal Council

28) The proposal to levy tax on the posting of advertisement had to be vetoed ~~and~~ as the Mysore city Municipalities Act does not, specifically provide for the levy, and Art 265 of the Constitution of India lays down that no tax shall be levied or collected except by authority of law, in respect of matters figuring in list II, 7th Schedule of which this item is one } Pl put up & copy C2 MS 7/2

29) The above legal difficulty to the imposition of this tax will be removed if Sec 64 of the Mysore city Municipalities Act is amended so as to include a specific power to levy advertisement tax the Municipal Council Mysore city, Requests the undertaking of necessary legislation in that behalf

30) The Law Secretary may perhaps be consulted on the proposal

(L S G - Secy). MS 16/2

122 Sep 1951

Secy 7/2 (5) MS

31) Please put up. Ins for Continuing My remarks on the Validity of this levy apropos

6888 Controlling and Pasting of advertisements
nds in Mysore city (II) 3445
LD

Sub Sanction of an estimate for the
Construction of Cement Concrete advertisement
boards in Mysore City.

MS
19/2/'57

Ref The file referred to in para 31 (Lawkhas file)
supra is put up

(L S G Secy) MS
28/2

12403/26/2 Sd
20/3/57
21/3
22/3

3) The proposed bye laws may, if the Law
Secy agrees, be approved Changing the word
tax wherever it occurs in the bye-laws as to
fee

Hon L S G
thro
Law Secy

MS
16/3/57
19/3

20/3/1951

LEGISLATIVE DEPT
TV
20 MAR 1951

Draft Bye-Laws for the levy of tax on advertisements

34) The administrative Secrett have suggested that the proposed Bye Laws may, if there is no legal objection, be approved after changing the word 'tax" wherever it occurs into "fee." This involves an examination of the exact meaning and import of the words "tax" and "fee." The distinction between "tax" and 'fee' pervades not merely the domain of law but also of public finance Viewing the question solely from the legal and constitutional aspects, it may be stated at the outset

Serial No

that both Statute law and case law have drawn out a sharp and clear cut distinction between these two legal concepts

35) The law lexicon defines the term "tax" as a rate or sum of money assessed on the person or property of a citizen by the government for the use of the nation or the state, burden or charges imposed by the legislative power upon persons or property to raise revenue for a public purpose. A tax has also been defined to be a word of general import including almost every species of imposition on property for supplying the public treasury, such as, tolls, tribute, subsidy, excise, impost or customs. In conformity with this wide sense of the term, it has been defined in clause (21) of section 3 of the Mysore City Municipalities Act, 19

NOTE—Contn Sheet

as including any toll, rate, cess, fee or other impost leviable under this Act
According to clause (28) of Article 366 of the Constitution, 'taxation" includes the imposition of any tax or impost whether general or local or special and tax should be construed accordingly

36) In addition to the full sledge sense of the word, tax" has also been defined in a limited sense and the legislative limits for the levy of tax, duty, cess, rate toll, fee and other imposts have also been laid down In particular, the principles to be followed in drawing the line of demarcation between 'tax' and 'fee" have been judicially enunciated in Godhandhar Ramanuj Das V province of Orissa AIR (37) 1950 Orissa 47, the question whether a particular levy was a tax or fee was the subject matter

of discussion and it was held that the true distinction between a tax and a fee is not "compulsion" but the presence or absence of a "quid pro quo" Where the imposition is in respect of the benefit taken by the person who is required to make the contribution or else where the imposition is for the services rendered by the authorities under an Act and for the purposes of the execution of that Act and such contributions are not credited to the general revenues they are not classified as taxes the actual name given to the levy in the Statute is immaterial, but its real nature, its "pith and substance" which must determine into what category it falls The purpose for which the levy is collected and the funds to which the levy is credited whether (to the general revenues or in a separate

found) – there are material factors in determining whether the levy is a tax or fee.

37) Judged by these principles, it is submitted that the suggestion of the administrative Secrett does not seem to be legally maintainable. The levy of an impost on advertisements under the nomenclature of 'fee' is in substance the levy of a tax. Thus the question reverts back to the old legal position and the constitutional impediments discussed in paras 12 to 17 in regard to the levy of a tax emerge once again. In the light of the provisions of Article 265 read with Article 246, it seems necessary to enact specific legislative measure for the purpose.

38) In this connection, kind attention is also invited to sections 64 and 82 of the Mysore Cities Municipalities

Draft Bye Laws for the levy of tax on advertisements

General and Revenue Secretariat | File No 3445 (17) of 19 | [App F III 2

WD 010852– GPB—30 000—14 7 50

L D

Serial No

Act, 1933 Section 64 of the Act vests power in the municipal council to levy certain taxes (including duties, cess, rates) and section 82 vests power to levy fees for licences or for the temporary occupation of lands vested in the municipal council It is observed from these provisions that fee is levied only in respect of benefits taken or service rendered and that in other cases, tax is the proper impost

39) If necessary, Law Dept may be consulted in the matter and also request to clarify the views expressed in para 17

2M 6451

40) I agree with the excellent note above put up by the Office I have nothing to add

Mas 6451

Law Secy

MWW 10/4

318 11 AUG 1951

41) A tax is nonetheless a tax even though it may be called a fee - Mere change of nomenclature does not change the legal effect of the imposition

NOTE—Contn Sheet

Draft Bye-laws for the levy of Tax on advertisements

File No (18) 3445 of 19 — L D

General and Revenue Secretariat

Serial No 6888/sel

(4) The power to levy fees is given under sec 82 while power to levy taxes is under sec 64 of the City Mcts Act. A fee can therefore be levied only in respect of licenses prescribed by or under the Act or when permission is granted for temporary occupation of any road or Pl land vested in the M' cl. It is sec 51 that deals with powers of a M' cl to frame bye laws. If therefore the idea is restricted to framing byelaws prescribing a license for advertisements to be put on places vested in the M' cl, there will be no legal objection to a fee being levied for such licenses. The bye laws proposed go far beyond this and in effect they are to impose a tax on all advertisements within M' area whether on property vested in M' Council or not. As the law stands, a M' Council under the City Mcts act cannot levy a tax on such advertisements.

Secy (Leg)

12/4/51

(3) 43) for order

(4) 44) The opinion of the Mos Law Secy may be accepted

12/4/51 MS 13/4

Rec'd 19/4/51

Rec'd 12/4/51

420 12/4

Office of the Minister for Local Self Govern

No 126

Date 14/4/51

MS 19/4

Dft Bye-laws for the levy of tax on advertisements

General and Revenue Secretariat | File No 6888/ml of 19 50-51 (19) | 694/ml [App F III 2

V D 01085 — GPB—30 000—14 7 50

Serial No

694/927/ML/ML

45) Dft Bylaws & Municipal Councils Resolns relg to above for approval

Reg 23/4/51 JA

46) Issue MS 23/4

Memo L 724/51-52 dy 27 4 51

To

The Municipal Comm

Municipality-

Municipality

Thro the Superintendent

Returns the draft of the bye-laws for levying, duly duly amended by the Govt in view of the observations and recommendations

Thro

The Municipal Council, Alleppey vide C2 p 92/48-49 dated 23 4 51

Requests the early consideration of Legislation to provide in the City Municipalities Act for the levy of advertisement tax

47) The bye laws have been returned to the Municipal Council for levying suitably amended in the light of the Law Dept's observations at para 42 of the note

48) Further Report with the amended bye laws if any

Reg 8/5/51

MS 11/5

It is reported that the bye-laws were not rectd vide reference rectd this day

MS 8/5

NOTE—Contn Sheet

Sent on to Asst Dept 11/5 day

Sup. D JA 4/5

Gft nye-Cows 1263/1213 for the levy of tax on
(20)
advertisements

File No 694 of 1954-52 ae — General and Revenue Secretariat

1263/ml

Serial No

50) Remarks as put up for appl

Sgd/- 51) Issue
8/2

R 0802 / 4228 / 3-2-54

From The Spl Officer
C2 PR 11-92/48-49 dt 4/2/54
Stating that a question is under examination that a further communication will be sent

804

52) Put forward the further communication will be awaited

53)

RS 11/2 8/2

Sgd 16/2

54) Remarks as put up

Sgd/- 55) Issue
7/5

Sgd 16/2

Issued R No L 1553 / 8-5-54

From
The Pl Comm Mysore Lr No Nil
C2 PR 11-92/48-49 dt 6-5-54
Sends an advertisement regarding the matter

56) For perusal The receipt of a further communication may be awaited 57)

RS 26/5 8/2 26/5

Sgd 31/1 8/2 1/6

Mysore Government Secretariat

1213, 1979

Controlling the Posting of advertisement Posters in Mysore City

File No. of 195

[App F III 2

(21)

Serial No

From

The M11 Comm Mysore City - M15
C2 PR 11-52/48-53 dt 10 6 54
Forwards his final reply on the mai

58) The M11 of Mysore at their meeting held on 7 6 1954 have approved of the proposals for the amendment of Sections 64 and 51 of the City-Millers Act 33 of 1949 and framing thereafter the bye laws to levy a tax and also to prevent the sticking of bills and advertisement posters

The amendments suggested as as follows

Section 64 Add a tax on advertisemen

Section 51 Add prohibition and Regulation of advertisements'

59) In this connection it may be noted that the Govt file bearing D. no 265/1951 containing several amendments to the City-Millers Act has been receiving attention in the Legislative Branch. If approved this amendment may also be incorporated in that file of legislation Dept, Govt no objection

60) The file after approval of the above amendment may be referred to the Legislative

Note — Contn Sheet

Conflicting the passing of advertisement tax 1979
in Mysore City - Mn.

File No (22) of 195 3445 491 LD

Mysore Government Secretariat

54 - 55
Serial No

Legislative Dept

For orders

17/6 17/6

61) The above two suggestions of the Mysore Municipalities are very reasonable and may be incorporated in the Bill

17/6

Secy (Legislative Dept)

62) 23/6 2311

Members of the Lawsey.

Legislative Dept 24/6/54

63) As regards the amendment of section 64 for empowering City Municipalities to levy a tax on advertisements, it seems desirable to consult the Finance Department as suggested in para 14 of the notes

A

64) As regards the proposed amendment of section 51 for empowering the municipal council to make bye-laws for controlling and regulating advertisements, it seems that the provisions of article 19(1)(a) of

WD 61FC1—GPB—60 000—22-1 54

Controlling the posting of advertisement
Parliament in Rajpore Cases 3495 / 491 -- 3554-55

Mysore Government Secretariat | 1979/me File No. 3495 / 491 of 1954-55 | [App F III 2

(23)

Serial No

of the Constitution of India guaranteeing freedom of speech and expression have to be considered, and the powers may have to be limited to restrictions in the interests of public order, decency or morality whether such a power should be conferred on municipalities or provided for in an Act enforceable throughout the State also requires consideration

Public

Do municipalities

elsewhere pass a

RETACTED
388
12 54
LAW DEPARTMENT
2916
14 JUL 1954
LAW DEPARTMENT

Mas
10/7/54
Law Secy)

65) Secrety - L S 4) 13/7/54

Mas
13/7/54

65) A on previous page for fo remarks

19/7
Secy)

FINANCE
GOVT
11 JUL 195
U O No 4406

67) Information may be obtained on the following points

① Copy of the Act to be made available and whether Law Dept. opinion that tax as proposed can be levied

② Approximate Revenue to be realised

(3) Whether in Madras or Bombay such a tax is being levied

(4) When the entire tax structure of the Country is under examination by the Taxation Enquiry Commission which should have

Note.—Contn Sheet

Serial No

attached ~~▼~~ such value importance to local bodies this during these discussions it is not advisable to postpone such measures

H(S) 4/5 20/5.

68) Apart from the constitutional point whether any delegation in respect of an item in the State List under the Constitution can be validly made by an amendment of a Municipal law without amending the Constitution no State Govt is now in a position to surrender even the limited powers of taxation now enjoyed by it. The State is not levying any tax on advertisements now this is a possible source of additional revenue which we may have to exploit soon in the context of increasing revenue deficits in the State Budget. It is also desirable to await the recommendations of the Taxation Enquiry Commission before taking any action which will have an affect on

Controlling the pasting of advertisements posters in Mysore City

Mysore Government Secretariat | File No. 1974/re of 195 (25) | [App F III 2

Serial No.

4426/7

the existing tax-structure & therefore feel that the suggested amendment of the City Municipalities Act be deferred & not dropped.

Secy i.S.G. 31/1/17

69) In view of the above further action would not be necessary

Minister 3/8 31/8

70) JL 6/8/54

10/8

Col

71) Submitted with draft letter for approval

DS 18/8 (20) 23/8 20

Issued 24

Sd/- M.V. Commr Mysore 24-8-54

d 6715/C17 15-Sec-12 dt 25.8.54

Note Ref Sl. No. - Suggested amendment be dropped

OFFICE OF THE MINISTER FOR PUBLIC HEALTH, LOCAL SELF GOVERNMENT 3 AUG No. 1966

Note—Contn Sheet

9

File No	of 195	Mysore Government Secretariat
		Serial No

No 63P 92/4849 (1) Regn 5/7

OFFICE OF THE MUNICIPAL COMMISSIONER
CITY MUNICIPALITY

Mysore Dated 7/6/1950

From

SRI C NARASIMHA MOORTY M A
MUNICIPAL COMMISSIONER
CITY MUNICIPAL COUNCIL
MYSORE

GENERAL & REVENUE SECRETARIAT 2219 JUL 1950

To

Sri L Muniswamy, B A ,
Secretary to Government,
L S G Department,
Bangalore

(Through the President)

Sir,

Subject - Controlling of pasting advertisement posters etc , in Mysore City

Adverting to your letter No L 7448-CM 58-49-2 dated 19-1-1950 from the Secretary to Government, General Department, conveying approval of Government to levy under Section 64 (b) (xiv) of the Mysore City Municipalities Act, 1933, a tax in respect of the above, I have the honour to state that the byelaws framed in this behalf were duly notified in the Official Gazette dated 16th March 1950 and objections were called for No objections were received After scrutiny by the Legal Committee the byelaws were placed before the Council for final approval, at their meeting held on 29th May, 1950 The Council have approved of the same with certain verbal alterations as shown in the notified byelaws enclosed in triplicate A copy of the resolution approving the byelaws as also enclosed I request you kindly to obtain sanction of Government approving the byelaws

Yours faithfully,
C Narasimha Moorty
Municipal Commissioner.
24.6.50

SNR

Forwarded with Compliments
S Nijalingappa
President
6/8

Proceedings of the Ordinary Meeting of the Municipal Council held on Monday the 29th May 1950 at 4 p m in the Municipal Offices (2)

---

242 Legal Committee Resolution No 14/16-5-1950 on the referred subject No 143/5-5-1950 of the Council that the draft bye-laws for the levy of tax on advertisements published in the official gazette dated 16-3-50 and no objections whereof have been received may be approved as revised by the Legal Committee

"Approved with the verbal alterations suggested by the Committee (as there can be no revision)

Sd S Linganna,

President

Copy

Municipal Commissioner

24/6/50

(3)

Appendix F G—1] No 4

SUBJECT Controlling the posting of advertisement posters etc in Mysore city

Diary No of letter replied to

General and Revenue Secretariat

( )

the 194

Date of issue

Signed by

List of enclosures

Copied by

Examined by

Section

File No

Serial No

No L 6536 & 269 50

To The Municipal Commr

Mysore city Municipality

(Through the president)

Sir,

With Reference to your L

no C3 P 92/48-49 dated 7/24 6

forwarding for Sanction draft by

laws in Respect of the above matter

as Resolved approved in the

Office letter no L 7448/CH 58-49

2 dated 19 1 50, I am directed

to State that the Legal portion

has changed since the Constitution

of India Came into force on 26 1 50

Taxes on advertisements other

on advertisements on newspapers is a State subject for legislation, appearing as item 55, List II of the 7th Schedule. The State legislature has exclusive power to make laws with respect to these entries. Again, Art 285 (1) of the Constitution of India enforces that no tax shall be levied or collected except by authority of law.

See 64 (1) of the Bombay City Municipalities Act does not specifically provide for the levy of this tax and as such a special enactment enabling the local bodies to levy such tax, the impugned ~~tax~~ would be repugnant to the provisions of the Indian Constitution. Hence this question will have to be seen whether legislative measures are undertaken delegating this power to the local bodies and acting separately in this behalf.

a question of delegation of legislative power of the State to the local body by a mere executive order

Yours faithfully

S C Sen

20/9/50

No Encls 4 C.R.D.92/489 (5)

CITY MUNICIPAL COUNCIL
Mysore Dated 6th January, 51

FROM

THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL COUNCIL
MYSORE

To

The Secretary to Government,
L S G Department,
Bangalore

(Through the President)

Sir,

Subject - Controlling the pasting of advertisement in Mysore

Adverting to your letter No L 6556 dated 26-9-1950 on the above subject, I have the honour to state that the proposals made by the Municipal Council were designed not only to augment the financial resources of the Municipality but also to check indiscriminate pasting of posters and advertisements which results in spoiling the beauty of the city Under Section 139 of the Mysore City Municipalities Act it is permissible to put up advertisement posters etc , with the permission of the house-owners concerned But such posters are pasted on avenue trees, lamp posts walls of public buildings and even on tarred roads In the absence of provision to license the pasting of advertisements, it has been found difficult to take action against the offenders, as the persons who actually paste the advertisements do so during nights It is hoped that the prosed byelaws which are modelled after the byelaws in force in Madras would facilitate the checking this evil practice

In these circumstances I request that necessary legislative measures may kindly be undertaken to enable the Municipality to bring the proposed byelaws into force

Yours faithfully,

Municipal Commissioner.

Forwarded with compliments

T Narasimha Iyengar
President

(6)

Appendix F G—11

SUBJECT Case Stated by the Collector of Mysore re Levy of Entertainment Tax in Mysore City

Enclosures Sent on 5/1/57

Diary No of letter replied to

Publicity Office

( )

the 194

Date of issue

Signed by

List of enclosures

Copied by

Examined by

Section

File No

Serial No

D 27 6-57

No L 726 dated 5-1-57

To

The Municipal Commissioner,
Mysore City
(Through the post)

Sir

With reference to the Correspondence ended with your letter No. C2 P 92/48-49 dated 6 1 51 on the above subject I am directed to state that power to levy fee is given under Sec 82 while the power to levy taxes is conferred by Sec 64 of the Mysore City Police Act 1933. A fee can therefore be levied in respect of licenses processed by or under the Act or other permission granted for temporary occupation of any Road or municipal

Local Act & the municipal Council
Sec 51 deals with the powers of a
municipal Council to frame bye laws
If therefore the idea is to enable to
frame bye laws prescribing a license
for advertisements to be put in places
visible in the municipal Council, to
levy a fee for such licenses is
unobjectionable The draft bye laws now
proposed go far beyond this and in
effect they are to impose a tax on
all advertisements within the municipal
area whether on property vested in
the municipal Council or not which under
the provisions of the Act as they stand now
exist, the municipal Council cannot
levy a tax on such advertisements

The amendment of the municipalities
Act to provide for the levy of a tax on
advertisements is also not feasible until
the Supreme Court gives its decision on
the question of "delegated legislation,
which has been taken up by them on
a Reference made from the Centre

The draft of the bye laws are therefore
herewith returned for the time being with the advice
that in the light of the above observations and
re-examination

Yours faithfully
MS
23/4
L S G Secy
Cal
23/4/51

(8)

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 724

General and Revenue Secretariat,

Dated Bangalore 22-4 19 57

FROM

The Secretary to the Government of Mysore,
~~His Highness the Maharaja of Mysore~~

L S G Department, Bangalore

To

The Municipal Commissioner,
Mysore City Municipality,
Mysore (Through the President)

SIR

Subject - Controlling the pasting of advertisement in Mysore City

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With reference to the correspondence ending with your letter No C2 P 92/48-49 dated 8-1-1951 on the above subject, I am directed to state that the power to levy fees is given under section 82, while the power to levy taxes is conferred by section 64 of the Mysore City Municipalities Act, 1933 A fee can therefore be levied in respect of licenses prescribed by or under the Act or when permission is granted for temporary occupation of any road or municipal land vested in the municipal council Section 51 deals with the powers of a municipal council to frame bye-laws If therefore the idea is restricted to framing bye-laws prescribing a license for advertisements to be put in places vested in the municipal council, the levy of a fee for such licenses is un-objectionable The draft bye-laws now proposed go far beyond this and in effect they are to impose a tax on all advertisements within the municipal area whether on property vested in the municipal council or not Under the provisions of the Act as they now exist, the municipal council cannot levy a tax on such advertisements

The amendment of the City Municipalities Act to provide for the levy of a tax on advertisements is also not feasible until the Supreme Court gives its decision on the question of "Delegated Legislation", which has been taken up by them on a reference from the Centre

The draft of the bye-laws are therefore herewith returned for being

being suitably amended by the Municipal Council in the light of the above observations and retransmission

Yours faithfully,

Secretary to Government
L S G Department

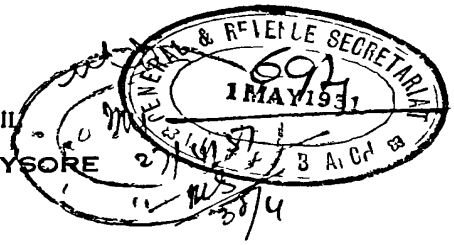
hsc-2(26-4)

C2 P 92/48-49
Encls

(9)

CITY MUNICIPAL COUNCIL
Mysore Dated 23-4-51

FROM Sri C Narasimha Moorty, M A ,
THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL COUNCIL
MYSORE



To

Sri M S Swaminathan, M A ,B Sc ,
Secretary to Government, L S G Department,
Bangalore

(Through the President, C M C Mysore)

Sir,

Subject - Controlling the pasting of advertisements in Mysore City

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In continuation of this office letter No C2 P 92/48-49 dated 6-1-1951 on the above subject, I enclose a copy of the resolution of the Municipal Council passed at their meeting held on 26-3-1951 and request you kindly to move the Government to take necessary action to undertake legislative measures in this behalf to enable the Municipality, to bring the proposed bye-laws into force, in the interest not only of revenue but also of the cleanliness and beauty of the city

Yours faithfully,

Municipal Commissioner

Forwarded with compliments,

PRESIDENT

PSK

(11)

No Encls Cr PR 11-92/48-49 7263 CITY MUNICIPAL COUNCIL
P B No 17
Mysore Dated 4-2-54

From

The Municipal Commissioner
City Municipal Council
MYSORE

To

The Secretary to Government
L S G & Planning Departments
Bangalore-1

Sir,

Subject Controlling the pasting of advertisements in Mysore city

Ref Your letter No L 724 dated 27-4-51 and subsequent reminder No 14228 dated 3-2-54

The question is under examination by the Revenue Officer and Legal Adviser of the Municipality with reference to the existing provisions of the City Municipalities Act A further communication will be made to you in the matter

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

PSK

No C2-PR 11-92/4849 (12)

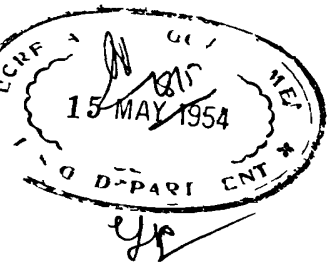
Encls

1213 CITY MUNICIPAL COUNCIL
P B No 17

Mysore Dated 14-5-1954

FROM

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE



To

The Secretary to Government,
L S G and Planning Departments
Bangalore 1

Sir

Subject Controlling the posting of advertisements in Mysore City

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Ref Your letter No L 1556 dated 8-5-1954

After examination of the question the Municipal Advocate was of opinion that certain sections of the Municipal Act require amendment to achieve the purpose in view Accordingly he has suggested certain amendments for being recommended to Government and the matter is pending before the Legal Committee Further reference will be made after the Legal Committee and the Council take a decision in this behalf

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

snr

(13)

No C2 PR 11-92/48 49 1979 CITY MUNICIPAL COUNCIL
Encls Two (Resolu of the Council & Note of the Mun Advocate) P B No 17
Mysore Dated 10-6-1954.

FROM

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE

To

The Secretary to Government,
L S G and Planning Department
Bangalore 1

(Through the President)

Sir,

C M 15-54-11

Subject Controlling the pasting of advertisement posters in Mysore City

Ref Your letter No L 1355 dated 5-5-1954 and this office reply No C2 PR 11-92/48-9 dated 14-5-54

The Legal Committee examined the suggestions of the Municipal Advocate, to amend the Sec 51 and 64 of the Mysore City Municipalities Act 1933 as noted

Sec 64 Add "a tax on advertisements"
Sec 51 - Add "prohibition and Regulation of advertisements

in the margin* to enable the Council to frame byelaws to levy a tax and recommend the same for approval of the Government The Council approved of the proposal at their meeting held on 7-6-1954

I enclose a copy of the resolution of the Council as also a copy of the note given by the Municipal Advocate and request that the Government may be moved to take action to incopporate the amendments for taking further action

Yours faithfully,
(N Lakshman Rau)
Municipal Commissioner

Forwarded with compliments
(K Puttaswamy)
President

(14)

Proceedings of the Adjourned meeting of the Mysore City Municipal Council held in the Municipal offices on 7-6-1954 at 4 p m

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200 Legal Committee Resolution No 7 dated 12-5-1954 recommending approval to the Municipal Advocate's proposals for the amendment of Sec 64 and 51 of the City Municipalities Act 1933, and framing (adopting) thereafter the byclaws which is already ready with regard to the prevention of sticking bills, advertisement posters (vide letter No L 724 dated 27-4-1951)

Approved

Sd K Puttaswamy
President

Copy

Municipal Commissioner

8/6/54

snr

Therefore the nuisance cannot be combated with such measures as noted above The only way to effectively deal with the problem is to regulate it by statutory provisions similar to those contained in some Corporation Acts (such as Bombay Calcutta and Bangalore Acts)

Therefore I suggest that the City Municipal Act may be got amended as follows -

Sec 64 - add "a tax on advertisements "

Sec 51 - add "prohibition and regulation of advertisements "

This has to be followed by framing suitable byelaws (which in this case is ready)

This course involves some delay But it is inevitable

Sd/-M R Narasimha Murthy,
Municipal Advocate

Relevant Sections in various Acts

1) Mysore City Municipalities Act - Sec 139
2) Bombay Municipal Boroughs Act - Sec 147
3) Punjab Municipal Act - Sec 178
4) Bombay Dist Municipalities Act - Sec 117
5) Bombay City Municipalities Act - Sec 328
6) Cal Municipal Act - Sec 229 to 223
7) Madras City Municipal Act - Sec 129(A) to 129(F)
8) Bangalore Municipal Corporation Act - Sec 97(b)
367(31)
and Byelaws

'Copy'

Note of the Municipal Advocate, Mysore re Bill sticking nuisance

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Under Sec 139(a) in the case of private buildings the Municip l Council can take action only on the complaint of owner or occupier On account of lack of public co-operation, this section is practically a dead letter

Section 178(2) of the Punjab Municipal Act provides that the Court may take cognizance of an offence under Sec 178(1) (which corresponds to Sec 139(a) of our Act) upon the complaint of the owner or occupier This does not seem to have yielded any good results

In Bombay, it was proposed to extend the section to the employer of the Bill stiker but the Legislature appears to have rejected the same (Bom Dist Municipalities Act Sec 117)

Under our Act also, unless the employer is also made liable for Bill sticking along with his employees there is no chance of any improvement Even here there is a practical difficulty to be faced After the bills are pasted, generally it is difficult to trace the person who did the work much less his employer In the case of Theatre owners, it may be possible, to trace th posters to them But the Municipal Council, will have to be approaching them continuously to give out the names of their employees

(17) Subject Conveying the passing of 7th/7/54

Advertisement posters in Mysore City - Amendment of Mysore City Municipalities Act 1933

From 6715 /C on 15-5-54-12

To — 9/9/54

The Dy Comm Mysore City - Mys

(Thro' the Press)

Sir,

With reference to the Correspondence resting with your letter no C2 PR 11-52/48-CSD 10 6 Sc on the above subject I am directed to state that as regards the Amendment of Section 51 of the City Municipalities Act 1933 for empowering the Dy Commr to make bye laws for prohibiting and regulating ~~the provisions of Art 19(1)(a) of the Constitution~~ advertisements have to be considered ~~both with reference to the provisions of article 19(1)(a) of the Constitution~~ of India guaranteeing freedom of speech and expression and the powers in this regard have to be limited by restrictions as

on the interests of public order, decency or morality - Whether such a power should be conferred on Mills or provided for in an Act enforceable through out the State - ~~is a proper attribution of~~ ~~the Legislature to be considered~~ - also requires consideration

It was also considered necessary to await the recommendations of the Taxation Enquiry Commission before taking any action which would have an effect on the existing tax-structure -

In the circumstances it was felt that the proposed amendment of the Cy - Mills Act 1933 be deferred, ~~if not dropped for the present~~ (In view of the above ~~further action would not be necessary~~)

Y D

Mr Jain
Mr DS Gupta
28 Feb

L 6716 - 9-9-52

Copy to the Mill Owners Association Cy-Mills' Rep for information

Gupta 27/2

(19)

GOVERNMENT OF MYSORE

Mysore Govt
~~General and Revenue~~ Secretariat
(Municipal Branch)

No. L 6715/e on 15-54-12 *Dated Bangalore* 9-9- *1954*

From

The Secretary to the Government of Mysore
L S G & Planning Departments

To

The Municipal Commissioner,
Mysore City Municipality
(thro' the President)

Sir,

Subject Controlling the pasting of advertisement posters in Mysore City - Amendment of Mysore City Municipalities Act, 1933

- - -

With reference to the correspondence resting with your letter No C? P R 11/92/48-49 dated 10th June 1954 on the above subject, I am directed to state that the suggested amendment of the City Municipalities Act, 1933 be deferred

Yours faithfully,

SD /V Hanumanthappa/
~~for~~ Secretary to Government,
L S G & Planning Departments

knr-3/7 9

P T O

Memo No L 6516 dt 9-9-57

Copy of the foregoing is forwarded to the Municipal Commissioner, Davangere City Municipality, thro' the President, for information

(V Hanumanthappa)
For Secretary to Government,
L S G & Planning Departments